

The European Union and air quality

Subsidiarity aims to divide competences between the European Union and the Member States according to the most appropriate level, based on the principle that European intervention must be justified by the fact that "the objectives of the proposed action cannot be sufficiently achieved by the Member States". The transboundary nature of air pollution, particularly for ozone and particulate matter, justifies European action in line with the Treaty on European Union aimed at "the dimensions or effects of the proposed action" (TEU, Article 5(3)).

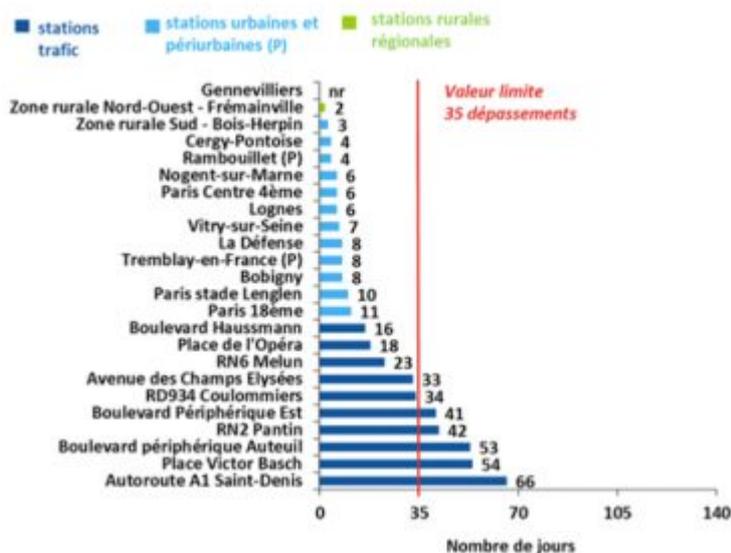


Figure 1. Number of days exceeding the daily threshold of $50 \mu\text{g}/\text{m}^3$ in PM_{10} particles in Île-de-France in 2016 [Source: © Airparif, Monitoring and information on air quality [http://www.airparif.asso.fr/etat-air/bilan-annuel Ile-de-France](http://www.airparif.asso.fr/etat-air/bilan-annuel-Ile-de-France), Year in Review 2016, Airparif, June 2017, p. 14: en]

The Community legislator's intervention is nevertheless much older. Specific legislation was introduced in the 1980s to limit, in each Member State, the ambient concentrations of certain pollutants identified as harmful to human health and the environment: sulphur dioxide and suspended particles in 1980, lead in 1982, nitrogen dioxide in 1985 and ozone in 1992. In 1996, a Framework Directive on ambient air quality assessment and management laid down the basic principles for a common strategy to define and set objectives for ambient air quality and to assess ambient air quality in the Member States. For its implementation, "daughter directives" have been adopted to update the standards for pollutants already regulated (SO_2 , NO_2 , particulate matter, lead) and to extend the regulations to new pollutants (benzene, carbon monoxide, polycyclic aromatic hydrocarbons, heavy metals). The 1996 Framework Directive and its daughter directives have, for the sake of simplification, been replaced by the Clean Air for Europe Directive as from 11 June 2010 (Directive 2008/50/EC of 21 May 2008), with the provisional exception of Directive 2004/107/EC of 15 December 2004 on toxic metals and PAHs in ambient air. The air quality limit values set by European Union law must be respected by Member States, which can be heavily condemned in the event of non-compliance.

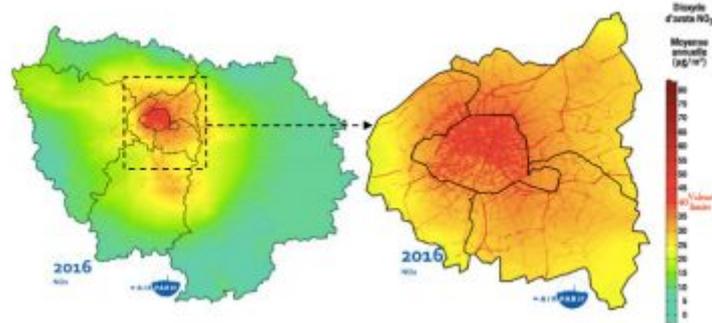


Figure 2. Average annual nitrogen dioxide (NO₂) concentration for all measuring stations in Île-de-France in 2015 [Source: © Airparif, *Surveillance et information sur la qualité de l'air en Ile-de-France, bilan année 2015*, p. 30 : <http://www.airparif.asso.fr/etat-air/bilan-annuel>]

France is in a situation of exceeding the limit values for PM₁₀ (figure 1) and NO₂ (figure 2). The amount of the fine for the particle litigation alone could amount to more than €100 million in the first year and €90 million per year in subsequent years, as long as there are overruns. The European Commission sent France a final warning in February 2017 for repeated exceedances of the NO₂ limit value in 19 air quality zones. The same warning was sent to Germany, Spain, Italy and the United Kingdom on the grounds that they have not remedied repeated breaches of the air pollution limits for nitrogen dioxide (NO₂).

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